HIGH COURT OF UTTARANCHAL AT NAINITAL

C-482 NO. 980 OF 2006

Anand Prakash,
S/0 Shri Govind Ram (Bandi Rakshak),
Sub Jail Campus, Roorkee,
Police Station Gangnehar, Roorkee,
District-Haridwar. .....Applicant.

Vs.

1. State of Uttaranchal,
2. Judicial Magistrate, Roorkee.
3. Jai Prakash Sharma, S/o Mahaveer Prashad (Bandi Rakshak) Sub Jai Campus, Roorkee, Police Station Gangnehar, Roorkee, District-Haridwar.

.....Respondent.

Hon'ble Rajesh Tandon, J.

Heard Sri Manish Arora, counsel for the applicant and A.G.A. for the State.

2. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicant has prayed for quashing of the charge-sheet of Case No. 2225 of 2005 State Vs. Anand Prakash under Section 323/504/506/452 of I.P.C. as well as for setting aside the order dated 21st November, 2005 by which the cognizance has been taken by the Magistrate concerned.

3. Briefly stated, respondent no. 2 lodged an FIR against the applicant in case Crime No. 42 of 2005 under Section 323, 504, 506, 452 of I.P.C.

4. According to the applicant, he is Bandi Rakshak and at present he is posted in Sub Jai Roorkee and respondent no. 3 is also Bandi Rakshak in Roorkee Jail and he is also posted in Sub Jail Roorkee. Both of the them are government servant.

5. Counsel for the applicant has submitted that there is some dispute regarding their cast between the applicant and the respondent no. 3 and for that purpose respondent no. 3 started misbehaving with the applicant. The respondent no. 3 has threatened him to leave the neighbourhood and manage his transfer elsewhere.

6. Counsel for the applicant has submitted that it is an internal dispute, which has resulted in the FIR under Section 323, 504, 506, 452 of the I.P.C. Before the submission of the charge-sheet, there was also a stay order dated 08.04.2005 to the following effect:

> "*Heard Sri Manish Arora, learned counsel for the petitioner and learned G.A.*
>
> *We have perused the First Information Report.*
>
> *Learned G.A. prays for and is granted three weeks' time to file counter affidavit.*
>
> *In the meantime, the petitioner shall cooperate with the investigation and no coercive methods shall be taken against him.*"

The aforesaid order has become infructuous after the submission of the charge-sheet and the grievance of the applicant is that in case, the applicant is not permitted

to be released on the same day, being a government servant he will suffer irreparable loss.

In view of the aforesaid facts and circumstances, since no interference is required under Section 482 of the Cr.P.C., however, in case the applicant surrenders and files a bail application before the trial Court, it is a fit case for being disposed of on the same day.

Subject to aforesaid, present application filed under Section 482 of the Code of Criminal Procedure is disposed of.

(Rajesh Tandon, J.)

01.12.2006
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